

Wednesday Magazine
December 21, 2005
By Kelley Weiss
Kweiss@dispatchtribune.com

Neighborhoods' discriminatory covenants amended

State bill allows homes associations to formally rescind language restricting blacks from buying properties

In January a long-fought battle for homes associations of the Country Club District will finally be resolved.

A restrictive covenant that has caused embarrassment and disgust to residents will be rescinded for 11 homes associations in the Brookside and South Plaza area. It stated: "None of the said lots shall be conveyed to, used, owned nor occupied by Negroes as owners or tenants."

J.C. Nichols wrote the restrictive covenant for these neighborhoods in the Country Club District before 1948, when the Supreme Court ruled they were unenforceable and unconstitutional. The court did not mandate that the language be removed from the restriction, so for years the sentence, although null, has haunted the homes associations including Armour Fields, Crestwood and Wornall Homestead.

In January a Missouri Senate bill will become effective, and the 11 homes associations' covenants will have a restriction modification in place amending the language. Ric Delaney, executive director of the Homes Associations of the Country Club District, said the legislative bill would not allow removal of the language because it was part of a legal document.

Since 1989, Delaney said, he and others have been trying to amend the language. But Nichols was determined to have his restrictions in perpetuity, he said, and he created an amendment process that was nearly impossible to accomplish.

"We found the language to be abhorrent," he said. "But we were hamstrung by the law."

To amend a restriction, Nichols stipulated that a title search must be done, every person on the active title must have a notarized signature, and it must be done five years before the 20- to 25-year renewal date. This would have applied to about 6,000 homes, Delaney said.

Dan Cofran, former city councilman, has been legal counsel to the Homes Associations of the Country Club District in this process. When the bill was passed in July he immediately went to work to create a resolution for each homes association's board of directors to sign with unanimous support to amend the language, which has been

completed. Cofran said before the Legislature had stepped in the amendment would have never happened.

“It was just fraught with all kinds of difficulties, and the Legislature came to the rescue, so to speak,” he said.

Although the Legislature passed the bill to allow homes associations to circumvent restrictions to any person because of race, color, religion, ancestry, sex, disability or family status, Cofran said, it took too long. The amount of time that passed was representative of society’s shifts in opinion and how long it can take to get there, he said.

“It has taken 80 years, two generations,” he said. “The clock for ridding ourselves from discrimination ticks by generations.”

Practicing in real estate law, Cofran said Kansas City had gradually moved toward more racially integrated neighborhoods, but there was still a long way to go.

“We’re seeing more and more diversity, but Kansas City is still a restrictive and segregated community,” he said. “There is a remarkable difference between east and west of Troost.”

Mark Forsythe, former president and ex-officio director for Wornall Homestead Homes Association, said he was relieved that the language would finally be amended.

“The problem was that the language was still there,” he said. “Even though it couldn’t be enforced, it was still there.”

“The language was detrimental and intimidating to residents,” he said, “and the recognition by the Legislature and unanimous support by the board of directors formally acknowledged that the language was no way agreed with or applicable today.”

John Sheets, past executive director of Homes Associations of the Country Club District for more than 10 years, and Delaney both said the bill would help other cities in Missouri and Kansas, particularly the Kansas homes associations in the district facing the same problem. Delaney said he was proud that the small Homes Associations of the Country Club District office had helped create an impetus for the long-awaited change. Lawmakers in Kansas are working on adopting a similar version of the Missouri bill, Delaney said.

“A mile away this isn’t cleaned up,” Delaney said. “It’s not finished; we’ve still got Kansas.”